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ZNR UUUUU ZZH  
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FM AMEMBASSY ASTANA  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 3759  
INFO RUCNCIS/CIS COLLECTIVE 0783  
RUCNCLS/SOUTH AND CENTRAL ASIA COLLECTIVE  
RUEHZL/EUROPEAN POLITICAL COLLECTIVE  
RUEHBJ/AMEMBASSY BEIJING 0182  
RUEHKO/AMEMBASSY TOKYO 0892  
RUEHIT/AMCONSUL ISTANBUL 0096  
RUCNDT/USMISSION USUN NEW YORK 2016  
RUEHNO/USMISSION USNATO 2350  
RHEBAAA/DEPT OF ENERGY WASHDC  
RUCPDO/DEPT OF COMMERCE WASHDC  
RUEATRS/DEPT OF TREASURY WASHDC  
RUEAIIA/CIA WASHDC  
RHEFAAA/DIA WASHDC  
RHEHNSC/NSC WASHDC 0345  
RUEKJCS/SECDEF WASHDC 0264  
RUEKJCS/JOINT STAFF WASHDC  
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SENSITIVE  
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STATE FOR SCA/CEN, EEB/ESC  
STATE PLEASE PASS TO USTDA DAN STEIN

E.O. 12958: N/A

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SUBJECT: KAZAKHSTAN: CRUDE EXPORT DUTY RAISES CONCERNS, GOVERNMENT  
CONSIDERS SOME MODIFICATIONS

REF: (A) ASTANA 01646 (B) ASTANA 01910

11. (U) Sensitive but unclassified. Not for public Internet.

12. (SBU) SUMMARY: Kazakhstan introduced an export duty on crude oil and oil products through a government decree issued on April 8. The rate for the crude duty is calculated based on a formula linked to the price of Brent crude. In the international business community, the duty has raised concerns about the investment climate and tax stability. On November 1, Minister of Energy Mynbayev recommended to the Cabinet that the duty be set on a monthly basis, rather than a quarterly one. The formula would not change, but recalculating the rate more frequently would enable it to more closely track with movements in crude oil prices, which have recently been quite volatile. END SUMMARY.

DUTY LINKED TO BRENT CRUDE PRICES

13. (U) Kazakhstan introduced an export duty on crude oil and oil products through a government decree issued on April 8. The export duty on crude is recalculated every quarter based on the following formula linked to the average price of Brent crude during the previous period:

- Brent crude price of \$138.60 per ton or less: no duty
- Brent crude price between \$138.60 and \$438.00: 5.0% of the amount by which the price exceeds \$138.60
- Brent crude price between \$438.00 and \$547.50: \$14.97 plus 22.83% of the amount by which the price exceeds \$438.00
- Brent crude price between \$547.50 and \$657.00: \$39.97 plus 38.21% of the amount by which the price exceeds \$547.50
- Brent crude price between \$657.00 and \$766.50: \$81.81 plus 48.48% of the amount by which the price exceeds \$657.00

- Brent crude price between \$766.50 and \$876.00: \$134.90 plus 55.82% of the amount by which the price exceeds \$766.50

- Brent crude above \$876.00: \$196.03 plus 61.34% of the amount by which the price exceeds \$876.00

14. (U) The crude duty was most recently recalculated on September 11, and was set at \$203,80 per ton -- a significant increase over the previous rate of \$109, which was, of course, the duty. For example, the Karachaganak Petroleum Operating consortium (KPO) has a tax stability clause in its agreement, but KPO -- led by Italy's Eni and the British Gas Group -- has nevertheless been forced to pay the duty. (NOTE: Eni Resident Manager Claudio Cogliati told energy officer that KPO should not have to pay the duty, but has done so in order to release crude shipments from a customs embargo (ref: A). END NOTE). Prime Minister Masimov has conversely told us that the duty applies

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to KPO because, unlike the Tengizchevroil (TCO) consortium's contract, KPO's Production Sharing Agreement does not explicitly exempt it from such a duty. Cogliati said that the matter is likely to go to international arbitration. END NOTE). Bradbury noted ironically that Kazakhstan's national oil and gas company KazMunaiGas is among the hardest hit by the export duty, since its contracts are not excluded from the tariff.

#### DUTY CREATES UNCERTAINTY

16. (SBU) Moukhit Akhanov, Kazakhstan Director of the International Tax and Investment Center in Almaty, sees the export duty as a relatively easy way for the government to raise revenue at a time when credit is tight, growth has slowed, and inflation is on the rise. Patty Graham, Director of Government Relations for ExxonMobil Kazakhstan, told us that although TCO, in which ExxonMobil has a 25% stake, is now exempt from the export duty, the application of the duty to KPO "makes you wonder how they will treat our contract down the road." Nicholas Olds, General Manager for ConocoPhillips' North Caspian operations, said he was anxious about the general lack of stability and certainty in the tax regime, citing the government's plans to increase the oil rent tax, introduce a new mineral extraction tax, and institute an excess profits tax for extractive industries. The uncertainty surrounding these proposed changes, said Olds, makes it very difficult to do long-range planning.

#### GOVERNMENT WILLING TO CONSIDER CHANGES

17. (SBU) On November 1, Minister of Energy and Mineral Resources Sauat Mynbayev recommended to the Cabinet that the export duty be set on a monthly basis, rather than a quarterly one, as is the current rule. The formula would not change, but recalculating the rate more frequently would enable it to more closely track with movements in crude oil prices, which have recently been quite volatile. He said at a November 1 press conference that he had discussed the proposed change with major oil companies in Kazakhstan. "The oil companies are in an awkward situation," he said. He noted that the current rate was calculated based on a quarterly average oil price of \$120-\$130 per barrel of crude, while the average price per barrel is now below \$70. Mynbayev explained that as a result, "the companies are now having great difficulty" with the duty. When the crude export duty was first announced, Mynbayev said that it would ensure stable supplies to domestic oil refineries and yield over \$1 billion in revenue to the national budget.

18. (SBU) COMMENT: Since the export duty is based on a published formula, there are no surprises regarding the rate or the manner in which it is determined. However, the recent rapid drop in oil prices has resulted in a higher relative rate than expected, which has increased uncertainty. Furthermore, the government's insistence that Karachaganak pay the export duty, despite its tax stability clause, has naturally raised questions about the government's respect for sanctity of contract, despite its reassurances on the issue. The government has made clear that in any event, it is intent on capturing a greater share of the profits from the energy sector -- to bring Kazakhstan in line with the share Norway reportedly captures, as Prime Minister Masimov has put it. The

export duty, along with proposed changes in the tax code, is a key component of this effort. END COMMENT.

HOAGLAND